

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 120293-001

HealthPlus of Michigan
Respondent

Issued and entered
this 7th day of September 2011
by R. Kevin Clinton
Commissioner

ORDER

I. BACKGROUND

On March 28, 2011, XXXXX, on behalf of her minor son XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.*

The Commissioner notified HealthPlus of Michigan of the request for external review and requested the information used in making its final adverse determination. The Commissioner received HealthPlus' response on March 29, 2011. On April 4, 2011, after a preliminary review of the material submitted, the Commissioner accepted the request.

This case involves a medical issue. Therefore, the Commissioner assigned the matter to an independent review organization which submitted its recommendation on May 5, 2011.

II. FACTUAL BACKGROUND

The Petitioner, born November 10, 1995, receives health care benefits as an eligible dependent under his father's coverage with HealthPlus. His benefits are defined in the HealthPlus group subscriber contract (the contract) as supplemented by Benefit Rider GA (the rider).

The Petitioner has short stature and his physician requested authorization and coverage for the growth hormone drug Norditropin to treat his growth delay. HealthPlus denied the request on the basis that the Petitioner did not meet its criteria for injectable growth hormone drugs.

The Petitioner's parents appealed the denial through HealthPlus's internal appeal process. HealthPlus upheld its original denial and issued its final adverse determination dated January 28, 2011. The Petitioner now seeks a review of that determination.

III. ISSUE

Did HealthPlus properly deny the Petitioner coverage for growth hormone?

IV. ANALYSIS

Petitioner's Argument

The Petitioner was evaluated by an endocrinologist on August 5, 2010. The notes of that visit said:

EXAMINATION SHOWS WEIGHT OF 53.6 KG, HEIGHT 157.7 CM.
HEIGHT HAS NOT SHOWN ANY CHANGE IN RECENT MONTHS
WHILE THE WEIGHT HAS INCREWSED 3 KG. ...

PEAK GROWTH HORMONE RESPONSE WAS 4.0. IGF 1 WAS 181.
BOTH THESE VALUES ARE SUBNORMAL. HIS BONE AGE AS
WELL AS CHRONOLOGICAL AGE IS 14.

ASSESSMENT AND RECOMMENDATION: A 14-YEAR-OLD BOY
WITH SHORT STATURE AND GROWTH HORMONE DEFICIENCY.
I AM RECOMMENDING FOR GROWTH HORMONE TREATMENT.

The Petitioner began receiving Norditropin on August 30, 2010. His parents say he is responding well to the growth hormone therapy and has grown over five inches since receiving the Norditropin injections.

The Petitioner's parents believe that the medical necessity for growth hormones has been established and that HealthPlus should cover the Norditropin.

Respondent's Argument

In its January 28, 2011, final adverse determination, HealthPlus explained why its grievance committee decided the Norditropin was not medically necessary for the Petitioner:

... It was determined to uphold the prior authorization denial for the prescription drug, Norditropin. This decision is based on the fact that [the Petitioner] does not meet HealthPlus' Prior Authorization Criteria for Injectable Drugs for Growth Hormones. Although he has a diagnosis of growth hormone deficiency, his height is not less than 5th percentile for his age and his bone age is not delayed.

As you know, [the Petitioner's] case was reviewed by a Pediatric Endocrinologist that is certified by the American Board of Pediatrics, Pediatric Endocrinology as well as the American Board of Internal Medicine in Internal Medicine and Endocrinology. It was noted by the Pediatric Endocrinologist, that XXXX does not meet the nationally accepted criteria because he does not meet the axiological criteria as his height is at the 10th percentile. Based on the Lawson Wilkins Criteria failure of growth hormone stimulation testing alone is not sufficient for a diagnosis of Growth Hormone deficiency. It was also noted that [the Petitioner] does not meet the other sets of criteria and his height is within normal range.

Commissioner's Review

The question of whether Norditropin is medically necessary was presented to an independent medical review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a practicing physician in active practice who is certified pediatric endocrinology. The IRO reviewer's report includes the following analysis and conclusions:

The Health Plan indicated that the [Petitioner] does not meet its criteria for coverage of this medication. The Health Plan also indicated that the member does not meet national criteria for coverage of growth hormone therapy. A portion of the Health Plan's contract was included in the case file. The Health Plan's policy regarding growth hormone therapy was also included in the case file.

Standard of Review:

In rendering its decision, MAXIMUS has interpreted the rights and responsibilities of the parties in accordance with...the Health Plan's contract and applicable coverage guidelines and generally accepted principles guiding the provision of health care.

Recommended Decision:

The MAXIMUS physician consultant determined that growth hormone therapy is medically necessary for treatment of the [Petitioner's] condition.

Rationale:

The MAXIMUS independent physician consultant, who is familiar with the medical management of patients with the [Petitioner's] condition, has examined the medical record and the arguments presented by the parties.

The results of the MAXIMUS physician consultant's review indicate that this case involves a 15 year-old male who has a history of idiopathic short stature. At issue in this appeal is whether growth hormone therapy is medically necessary for treatment of the [Petitioner's] condition.

The MAXIMUS physician consultant noted that the [Petitioner's] mid-parental adult height expectation is 65.5 inches. The MAXIMUS physician consultant also noted that the [Petitioner's] predicted adult height based on his bone age and height in March 2010 was 61 inches.

The MAXIMUS physician consultant further noted that the [Petitioner's] pediatric endocrinologist started him on growth hormone therapy on 8/30/10. The MAXIMUS physician consultant indicated that by December 2010, the [Petitioner] had an increased growth velocity at an annualized rate of 7.85 per year and a predicted adult height of 61.5 inches. The MAXIMUS physician consultant explained that the [Petitioner] meets the FDA criteria to recommend growth hormone therapy for his idiopathic short stature. [Citations omitted]

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that growth hormone therapy is medically necessary for treatment of the [Petitioner's] condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment.

The Commissioner therefore accepts the conclusion of the IRO and finds that growth hormone therapy is medically necessary for the Petitioner's condition.

V. ORDER

The Commissioner reverses HealthPlus' January 28, 2011, final adverse determination. HealthPlus shall cover the Petitioner's growth hormone within 60 days of the date of this Order and shall, within seven days of providing coverage, furnish the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner